

# SENATE BILL 447

E2, E1

11r1210

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By: **Senators Brochin and Stone**

Introduced and read first time: February 4, 2011

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Evidence – Separate Act of Sexual Misconduct Involving a Minor –**  
3 **Admissibility**

4 FOR the purpose of authorizing a court to admit evidence of a defendant's commission  
5 of a certain separate act of sexual misconduct involving a minor in a prosecution  
6 for certain sexual offenses involving a minor under certain circumstances;  
7 requiring the State's Attorney to disclose to the defendant the State's intent to  
8 offer the evidence within a certain time period before the trial unless the court  
9 allows disclosure at a later time for good cause shown; specifying the content of  
10 the disclosure to the defendant; prohibiting certain evidence from being referred  
11 to in a statement to the jury or introduced at trial unless the court first holds a  
12 closed hearing and determines that the evidence is admissible; requiring the  
13 court to enter an order stating which evidence may be introduced under certain  
14 circumstances; authorizing the court to reconsider a ruling excluding evidence  
15 and hold an additional closed hearing if new information is discovered during  
16 the trial that may make the evidence admissible; defining certain terms;  
17 providing for the construction and application of this Act; and generally relating  
18 to the admissibility of evidence in criminal proceedings.

19 BY adding to

20 Article – Courts and Judicial Proceedings  
21 Section 10–916.1  
22 Annotated Code of Maryland  
23 (2006 Replacement Volume and 2010 Supplement)

24 BY repealing and reenacting, without amendments,

25 Article – Criminal Law  
26 Section 1–101(g)  
27 Annotated Code of Maryland  
28 (2002 Volume and 2010 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – Courts and Judicial Proceedings**

4 **10-916.1.**

5 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE  
6 MEANINGS INDICATED.

7 (2) “ACT OF SEXUAL MISCONDUCT INVOLVING A MINOR” MEANS A  
8 CONVICTION FOR:

9 (I) A VIOLATION OF § 3-602 OF THE CRIMINAL LAW  
10 ARTICLE;

11 (II) A VIOLATION OF FORMER ARTICLE 27, § 35C OF THE  
12 CODE OCCURRING BEFORE OCTOBER 1, 2002, THAT INVOLVED SEXUAL ABUSE  
13 OF A MINOR;

14 (III) A VIOLATION OF TITLE 3, SUBTITLE 3 OF THE  
15 CRIMINAL LAW ARTICLE INVOLVING A VICTIM WHO IS A MINOR; OR

16 (IV) A VIOLATION OF FEDERAL LAW OR THE LAW OF  
17 ANOTHER STATE THAT, IF COMMITTED IN THIS STATE, WOULD CONSTITUTE ANY  
18 OF THE CRIMES SPECIFIED IN ITEMS (I) THROUGH (III) OF THIS PARAGRAPH.

19 (3) “MINOR” HAS THE MEANING STATED IN § 1-101 OF THE  
20 CRIMINAL LAW ARTICLE.

21 (B) SUBJECT TO SUBSECTION (D) OF THIS SECTION, IN A PROSECUTION  
22 FOR A VIOLATION OF § 3-602 OF THE CRIMINAL LAW ARTICLE OR A VIOLATION  
23 OF TITLE 3, SUBTITLE 3 OF THE CRIMINAL LAW ARTICLE INVOLVING A VICTIM  
24 WHO IS A MINOR, EVIDENCE OF THE DEFENDANT’S COMMISSION OF A SEPARATE  
25 ACT OF SEXUAL MISCONDUCT INVOLVING A MINOR IS ADMISSIBLE IF THE  
26 COURT:

27 (1) (I) IN A BENCH TRIAL, FINDS BY CLEAR AND CONVINCING  
28 EVIDENCE THAT THE DEFENDANT COMMITTED THE SEPARATE ACT; OR

29 (II) IN A JURY TRIAL, FINDS THAT A REASONABLE JURY  
30 COULD FIND BY CLEAR AND CONVINCING EVIDENCE THAT THE DEFENDANT  
31 COMMITTED THE SEPARATE ACT; AND

